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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/853,035	05/10/2001	Ahmad R. Sajadi	2316.1460US01	5056
23552	7590	02/23/2005	EXAMINER	
MERCHANT & GOULD PC P.O. BOX 2903 MINNEAPOLIS, MN 55402-0903			SINGH, RAMNANDAN P	
			ART UNIT	PAPER NUMBER
			2644	

DATE MAILED: 02/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/853,035	SAJADI ET AL.	
	Examiner	Art Unit	
	Ramnandan Singh	2644	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>Feb. 13, 2004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed on Feb. 13, 2004 have been considered but are moot in view of the new ground(s) of rejection.

2. Status of Claims

Claims 1, 12, 21, and 29 are amended.

Claims 1-32 are pending.

Double Patenting

3. ANALYSIS:

To demonstrate that the co-pending application S/N: 09/815,161 (PGPUB: US 20020136392 A1) and the instant application S/N: 09/853,035 are claiming common subject matter, a brief analysis is presented below:

(I): Claim 1 (Currently amended) of Instant Application : A telecommunications device comprising:

a chassis including a card housing containing a plurality of splitter cards, the housing including top and bottom walls and also including front and back ends and opposing sides, the front end defining an access opening for allowing the splitter cards to be inserted into or removed from the card housing;

a circuit board positioned at the back end of the housing, the circuit board including a major front face that faces toward the front end of the housing, the circuit board also including an upper portion that extends higher than the top wall of the housing and a lower portion that extends lower than the bottom wall of the housing;

a plurality of card edge connectors for providing electrical connections with the splitter cards, the card edge connectors being located within the card housing and being mechanically coupled to the front side of the circuit board;

first telecommunications connectors mechanically coupled to the front face of the circuit board at the upper portion of the circuit board;

second telecommunications connectors mechanically coupled to the front face of the circuit board at the lower portion of the circuit board;

the chassis defining upper and lower open side regions for allowing cables to be routed laterally from adjacent the sides of the chassis to the first and second telecommunications connectors, the upper and lower open side regions being located adjacent to the back end of the housing, the upper open side regions being located above the top wall of the card housing and the lower open side regions being located below the bottom wall of the card housing; and

the card edge connectors being electrically connected to the first and second telecommunications connectors by the circuit board.

(II): Claim 1 of Co-pending Application S/N: 09/815,161: . A telecommunications assembly comprising:

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A) a chassis including:

a first end positioned opposite from a second end;
opposing top and bottom walls that extend between the first and second ends;
opposing side walls that extend between and interconnect the top and bottom walls;

side card edge guides connected to the side walls of the chassis at locations within the chassis;

B) a plurality of splitter cards supported within the chassis by the card edge guides, the splitter cards being vertically spaced-apart from one another, each of the splitter cards including:

a circuit board having a first end positioned opposite from a second end, the first end being positioned adjacent to the first end of the chassis;

a line connector mounted adjacent the first end of the circuit board; a data connector mounted adjacent the first end of the circuit board;

a voice connector mounted adjacent the first end of the circuit board; a plurality of splitters connected to the circuit board for splitting composite signals into voice and data signals;

the circuit board including conductive paths for directing composite signals from the line connector to the splitters, for directing voice signals from the splitters to the voice connectors, and for directing data signals from the splitters to the data connectors; and

C) at least one card-retaining bracket mounted at the first end of the chassis for retaining the splitter cards within the chassis, the card-retaining bracket including a plurality of card support members that extend beneath the splitter cards within the chassis to inhibit the splitter cards from bending due to gravity.

(III) From the comparison between the above two claims it is concluded that the co-pending application S/N: 09/815,161 discloses all the features of claim 1 of the instant application except "the circuit board also including an upper portion that extends higher than the top wall of the housing and a lower portion that extends lower than the bottom wall of the housing". Further, this distinctive feature was also pointed out by the Applicant in his response dated 2/13/2004 on page 13. It would have been obvious to one of ordinary skill in the art, at the time the instant invention was made, that such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. In *re* Rose, 105 USPQ 237 (CCPA 1955).

4. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA

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1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

5. Claims 1-32 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-28 of copending Application No. 09/815,161. Although the conflicting claims are not identical, they are not patentably distinct from each other because claims 12, 21 and 29 of the instant application are broader versions of claim 1 of the instant application.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ramnandan Singh whose telephone number is (703)308-6270. The examiner can normally be reached on M-F(8:00-4:30).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Forester Isen can be reached on (703)-305-4386. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ramnandan Singh
Examiner
Art Unit 2644



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SUPERVISORY PATENT EXAMINER



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